

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2775
)	
KENNETH M. LEVINE, D.O.)	STIPULATION AND CONSENT
Holder of License No. 1696 for the)	ORDER OF PROBATION OF LICENSE
practice of osteopathic medicine in the)	
State of Arizona.)	
_____)	

STIPULATION


By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Kenneth M. Levine, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.
2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the consent order in state or federal court.
3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public records which will be disseminated as a formal action of the Board as required by A.R.S. §§ 32-1855 (L) and (K).
5. Respondent admits to the statement of facts and conclusions of law contained in the Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

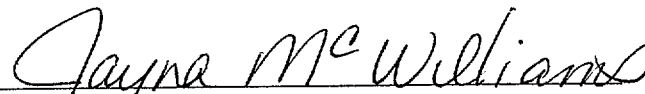
7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

REVIEWED AND ACCEPTED this 27th day of April, 2000.


Kenneth M. Levine, D.O.

STATE OF ARIZONA)
) ss
County of Maricopa)

This instrument was acknowledged before me this 27 day of April, 2000 by the above-named individual.


Notary Public

My Commission expires:

June 21, 2002

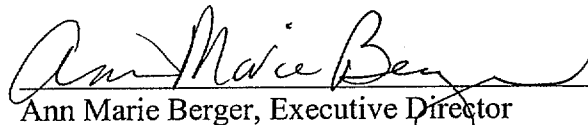


Notary Public State of Arizona
Maricopa County
Jayna M. McWilliams
Expires June 21, 2002

REVIEWED AND APPROVED as to form by counsel for Respondent on this ____ day of
April, 2000.

Counsel for Respondent

REVIEWED AND SIGNED this 4th day of ^{May}~~April~~, 2000 for the Board by:


Ann Marie Berger, Executive Director
Arizona Board of Osteopathic Examiners in Medicine
and Surgery

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2775
)	CONSENT ORDER FOR TERMS
KENNETH M. LEVINE, D.O.)	AND CONDITIONS FOR PROBATION
Holder of License No. 1696 for the)	OF LICENSE
practice of osteopathic medicine)	
in the State of Arizona.)	
_____)	

FINDINGS OF FACT

1. The Board is empowered, pursuant to A.R.S. § 32-1800, et seq to regulate the licensing and practice of osteopathic medicine in the State of Arizona.
2. Respondent is a licensee of the Board and the holder of License No. 1696 for the practice of osteopathic medicine in the State of Arizona.
3. Information was brought to the attention of the Board that Respondent may be medically and/or psychologically unable to safely and skillfully engage in the practice of medicine and may have committed one or more acts of unprofessional conduct as defined in A.R.S. § 32-1854:
 - a. On or about April 21, 2000 the Board received information from Perry G. Fine, M.D. National Medical Director for VistaCare alleging that Respondent had informed him that he had a substance abuse problem and, due to that fact, had resigned from VistaCare.
 - b. On April 21, 2000 Respondent admitted to taking some oxycodone pills from medications that had been thrown away from a hospice patient. Respondent stated that he was concerned regarding his periodic use of narcotics over the past several

months and went to an outpatient evaluation at Tempe Valley Hope and was currently clean and sober and willing to be monitored by the Board for a five-year period.

3. In public session, the Board voted on April 29, 2000 and agreed to the entry of the Stipulated Consent Order for Probation.

CONCLUSIONS OF LAW

The aforementioned conduct alleged against Respondent constitutes unprofessional conduct as defined at A.R.S. § 32-1855:

- (3) Practicing medicine while under the influence of alcohol, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.
- (5) Prescribing, dispensing or administering controlled substances or prescription only drugs for other than accepted therapeutic purposes.
- (6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.
- (19) Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.
- (20) Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.
- (37) Violating a federal law, a state law or a rule applicable to the practice of medicine.
- (40) Any conduct or practice that endangers a patient's or the public's health or may

reasonably be expected to do so.

- (41) Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Kenneth M. Levine, D.O. ("Respondent"), Board License Number 1969, will be placed under **PROBATION** for five (5) years and shall comply with the terms and conditions of probation as set forth herein:
2. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide the copies of this Consent Order until the expiration of this Order.
3. Should Respondent fail to comply with any of the terms and conditions of this stipulation and agreement, the Board may, upon notice and opportunity to be heard, take disciplinary action against his license to practice osteopathic medicine and surgery in the State of Arizona.
4. In the event Respondent ceases to reside in Arizona, he will give written notice to the Board of her new residence address within twenty (20) days of moving; and, the terms and duration of suspension may be stayed by the Board until Respondent returns to Arizona.
5. Respondent will continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.
6. The Board's Executive Director will send correspondence to the appropriate state

and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent, i.e., illicit use of controlled substances and obtaining controlled substances illegally.

7. The Board may require that Respondent as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician/or psychologist which will be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's Executive Director which will be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e. within sixty (60) minutes of notification) required biological fluids for testing and said testing will be done at the Respondent's expense.

8. From the date of this Order, Respondent shall obtain psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board. Respondent shall comply with the therapist recommendation for the frequency of therapy treatment sessions. Respondent shall inform the Board by letter (mailed within ten days of the date of this Order) of the therapist's name, and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, he shall give the Board written notice within ten (10) days of the said action. Respondent shall not discontinue or reduce the frequency of psychotherapy session until he has submitted a written request to the Board and obtained Board approval.

9. Respondent shall participate in a minimum of two (2) self-help meetings per week through such organizations as A.A., N.A., C.A. and doctor's Caduceus group. Respondent shall

keep a log of all meetings attended and have the log signed by the chairperson of the meeting.

Respondent will provide the Board with a copy of the signed log the first of every month.

10. Respondent shall abstain completely from the consumption of alcoholic beverages; and, Respondent shall not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless such medication is prescribed for him by his treating physician. Respondent shall maintain a monthly log (for the duration of probation) of all prescription only drugs taken by him and such log shall include the following information:

- (a) The name of the medication;
- (b) The name of the prescribing physician;
- (c) The reason for the medication.

On the first day of each month, Respondent shall report by letter to the Board whether or not he is taking any medications and, if so, a copy of his log reflecting the above-information.

11. Respondent will reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter within sixty days of receipt of the request for payment.

12. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and will be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED this 4th day of ^{May}~~April~~, 2000.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Berger
Ann Marie Berger, Executive Director
9535 E. Doubletree Ranch Rd.
Scottsdale AZ 85258-5539
(480) 657-7703

Served by personal service or
sending U.S. certified mail
this 8th day of April, 2000 to:

Kenneth M. Levine, D.O.
455 N. Mesa Dr.
Mesa AZ 85201

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007

Arizona Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix AZ 85015

Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St
Phoenix AZ 85012

Susan J. McIlhri